

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI

In re:)	BANKRUPCTY CASE
)	NO. 20-50218-btf-13
BRIAN MICHAEL BERNARD)	
)	
AND)	
)	
JENNIFER ANN BERNARD)	
)	ADVERSARY CASE NO.
Debtor(s))	20-5008-btf
)	
)	
RICHARD V. FINK, STANDING)	
CHAPTER 13 TRUSTEE,)	
Plaintiff)	
)	
vs.)	
)	
CARVANA LLC)	
1930 W. RIO SALADO PKWY)	
TEMPE, AZ 85281)	
)	
CARVANA LLC)	
PO BOX 29018)	
PHOENIX, AZ 85038)	
)	
CARVANA LLC)	
PO BOX 29002)	
PHOENIX, AZ 85038)	
)	
CARVANA LLC)	
c/o CSC-LAWYERS INCORPORATING)	
SERVICE COMPANY)	
221 BOLIVAR ST.)	
JEFFERSON CITY, MO 65101)	
)	
Defendant(s).)	

ORDER

COMES NOW Richard V. Fink, the Standing Chapter 13 Trustee, and Creditor, Carvana LLC, by and through counsel, and hereby stipulate and agree as follows:

- 1) On November 9, 2020, Plaintiff Richard V. Fink (“Trustee”) filed adversary complaint 20-5008-btf against Defendant Carvana LLC (“Carvana”).
- 2) The complaint sought to avoid the transfer by Brian Michael Bernard and Jennifer Ann Bernard

(“Debtors”) to Carvana regarding the granting of a security interest in a 2018 Nissan Altima with VIN 1N4AL3AP8JC118621 (“Vehicle”).

- 3) The parties hereto acknowledge that:
 - a. On or about March 21, 2020, Debtors purchased the Vehicle and granted a security interest in the Vehicle to Carvana.
 - b. Debtors filed for relief under Chapter 13 of Title 11 of the United States Code on June 21, 2020.
 - c. Defendant’s security interest in the Vehicle was not perfected as of the petition filing date.
 - d. As Carvana’s security interest was not perfected as of the petition date in accordance with applicable law, it is not enforceable against third parties, including the Trustee, pursuant to 11 U.S.C. §544.
 - e. The Trustee asserts that Carvana’s unperfected security interest in the Vehicle is avoidable and that the property may be preserved for the benefit of estate pursuant to 11 U.S.C. §550 and §551.

IT IS THEREFORE ORDERED:

- 1) Carvana’s lien on the 2018 Nissan Altima with VIN 1N4AL3AP8JC118621 is avoided pursuant to 11 U.S.C. §544 and the property is preserved for the benefit of the bankruptcy estate pursuant to 11 U.S.C. §550 and §551.
- 2) For the purposes of Debtor’s Chapter 13 case, Carvana’s claim 19 shall be treated by the Trustee as a secured claim in the amount of \$920.61 (the adequate protection payments previously disbursed) with the remainder allowed as a non-priority unsecured claim; and
- 3) Upon successful completion of a Chapter 13 plan by Debtors, Carvana will execute and deliver to Debtors a release of lien. If Debtors converts their case to a Chapter 7 case, Carvana shall release its lien to the Chapter 7 Trustee.
- 4) In the event that Debtors’ Chapter 13 bankruptcy case is dismissed, Carvana’s security interest shall, as provided in 11 U.S.C. §349(b), remain unaffected by the bankruptcy or this Order. Any payments made to Carvana during the pendency of the bankruptcy shall be applied to any debt owed by the Debtors to Carvana, in accordance with the pre-petition agreement between Carvana and the Debtors and applicable law.

IT IS SO ORDERED

Dated: 1/11/2021

/s/Brian T. Fenimore
Brian T. Fenimore
UNITED STATES BANKRUPTCY JUDGE

Submitted and Approved by:

/s/ Dana M. Estes

Dana M. Estes, #47540
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Office of the Chapter 13 Trustee for the Western District of Missouri
Richard V. Fink, Trustee
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Approved by:

/s/Melinda J Maune #49797 1/7/2021

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